

APR 17 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NABEEL ALSANABANY,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75294

Agency No. A77-159-864

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006^{**}

Before: SILVERMAN, McKEOWN, and PAEZ, Circuit Judges.

Nabeel Alsanabany, a native and citizen of Yemen, petitions for review of the Board of Immigration Appeals' ("BIA") order denying his motion to reopen

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal proceedings. We have jurisdiction under 8 U.S.C. § 1252. We deny the petition for review.

Alsanabany's opening brief fails to challenge the BIA's determination that his motion to reopen was untimely filed. Because untimeliness was the sole ground for the BIA's denial of the motion, Alsanabany has waived any challenge to the BIA's order. *See Martinez-Serrano v. INS*, 94 F.3d 1256, 1259-60 (9th Cir. 1996).

PETITION FOR REVIEW DENIED.